

House File 367 - Introduced

HOUSE FILE 367

BY KELLEY

A BILL FOR

1 An Act prohibiting employment discrimination based on
2 unemployment status and providing remedies.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS — PURPOSE.

2 1. The general assembly finds that denial of employment
3 opportunities to individuals because of their status as
4 unemployed is discriminatory and burdens commerce by doing one
5 or more of the following:

6 a. Reducing personal consumption and undermining economic
7 stability and growth.

8 b. Squandering human capital essential to the state's
9 economic vibrancy and growth.

10 c. Increasing demands for unemployment insurance benefits,
11 reducing unemployment trust fund assets, and leading to higher
12 payroll taxes for employers or cuts in unemployment insurance
13 benefits for jobless workers, or both.

14 d. Imposing additional burdens on publicly funded health and
15 welfare programs.

16 e. Depressing income, property, and other tax revenues that
17 the states and local governments rely on to support operations
18 and institutions essential to commerce.

19 2. The purposes of this Act are all of the following:

20 a. To prohibit employers and employment agencies from
21 disqualifying an individual from employment opportunities
22 because of that individual's status as unemployed.

23 b. To prohibit employers and employment agencies from
24 publishing or posting any advertisement or announcement for
25 an employment opportunity that indicates that an individual's
26 status as unemployed disqualifies that individual for the
27 opportunity.

28 c. To eliminate the burdens imposed on commerce due to the
29 exclusion of such individuals from employment.

30 Sec. 2. Section 216.2, Code 2013, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 14A. "*Status as unemployed*" means that an
33 individual, at the time of application for employment or at the
34 time of action alleged to violate this chapter, does not have a
35 job, is available for work, and is searching for work.

1 Sec. 3. Section 216.2, subsection 15, Code 2013, is amended
2 to read as follows:

3 15. *“Unfair practice” or “discriminatory practice”* means
4 those practices specified as unfair or discriminatory in
5 sections 216.6, 216.6A, 216.6B, 216.7, 216.8, 216.8A, 216.9,
6 216.10, 216.11, and 216.11A.

7 Sec. 4. NEW SECTION. 216.6B Additional unfair or
8 **discriminatory practice — unemployment status discrimination in**
9 **employment.**

10 1. It shall be an unfair or discriminatory practice for an
11 employer to do any of the following:

12 a. Publish in print, on the internet, or in any other
13 medium, an advertisement or announcement for an employee for
14 any job that includes any of the following:

15 (1) Any provision stating or indicating that an
16 individual’s status as unemployed disqualifies the individual
17 for any employment opportunity.

18 (2) Any provision stating or indicating that the employer
19 will not consider or hire an individual for any employment
20 opportunity based on that individual’s status as unemployed.

21 b. Fail or refuse to consider for employment, or fail or
22 refuse to hire, an individual as an employee because of the
23 individual’s status as unemployed.

24 c. Direct or request that an employment agency take an
25 individual’s status as unemployed into account to disqualify
26 an applicant for consideration, screening, or referral for
27 employment as an employee.

28 2. It shall be an unfair or discriminatory practice for an
29 employment agency to do any of the following:

30 a. Publish in print, on the internet, or in any other
31 medium, an advertisement or announcement for an employee for
32 any vacancy in a job, that includes any of the following:

33 (1) Any provision stating or indicating that an
34 individual’s status as unemployed disqualifies the individual
35 for any employment opportunity.

1 (2) Any provision stating or indicating that the employment
2 agency or an employer will not consider or hire an individual
3 for any employment opportunity based on that individual's
4 status as unemployed.

5 b. Screen, fail or refuse to consider, or fail or refuse to
6 refer an individual for employment as an employee because of
7 the individual's status as unemployed.

8 c. Limit, segregate, or classify an individual in any
9 manner that would limit or tend to limit the individual's
10 access to information about jobs, or consideration, screening,
11 or referral for jobs, as an employee, solely because of the
12 individual's status as unemployed.

13 3. This section shall not be construed to preclude an
14 employer or employment agency from considering an individual's
15 employment history, or from examining the reasons underlying
16 an individual's status as unemployed, in assessing an
17 individual's ability to perform a job or in otherwise
18 making employment decisions about that individual. Such
19 consideration or examination may include an assessment of
20 whether an individual's employment history in a similar or
21 related job for a period of time reasonably proximate to the
22 time of consideration of the individual for new employment is
23 job-related or consistent with business necessity in relation
24 to that new employment.

25 Sec. 5. Section 216.15, subsection 9, paragraph a, Code
26 2013, is amended by adding the following new subparagraph:

27 NEW SUBPARAGRAPH. (10) For an unfair or discriminatory
28 practice relating to unemployment status discrimination
29 pursuant to section 216.6B, payment to the complainant of
30 damages for an injury caused by the unfair or discriminatory
31 practice which damages shall include but are not limited to
32 actual damages, court costs, reasonable attorney fees, and any
33 of the following, if applicable:

34 (a) For an unfair or discriminatory practice relating to
35 unemployment status discrimination pursuant to section 216.6B,

1 subsection 1, paragraph "a", or subsection 2, paragraph "a",
2 damages in an amount not to exceed one thousand dollars for
3 each day the unfair or discriminatory practice occurs.

4 (b) For an unfair or discriminatory practice relating to
5 unemployment status discrimination pursuant to section 216.6B,
6 subsection 1, paragraph "b" or "c", or subsection 2, paragraph
7 "b" or "c", if wages, salary, employment benefits, or other
8 compensation have not been denied or lost to the individual,
9 damages in an amount not to exceed five thousand dollars.

10

EXPLANATION

11 This bill prohibits employment discrimination based on
12 an individual's status as unemployed. The bill defines
13 "status as unemployed" as an individual who, at the time
14 of application for employment or at the time of an alleged
15 violation, does not have a job, is available for work, and
16 is searching for work. The Iowa civil rights commission is
17 charged with administration of the bill via existing procedures
18 for employment discrimination complaints.

19 The bill prohibits an employer from engaging in certain
20 unfair or discriminatory employment practices. An employer is
21 prohibited from publishing an advertisement or announcement
22 for employment that includes any provision stating that an
23 individual's status as unemployed disqualifies the individual
24 for any employment opportunity or any provision stating that
25 the employer will not consider or hire an individual for any
26 employment opportunity based on that individual's status as
27 unemployed. An employer is prohibited from failing or refusing
28 to consider for employment or failing or refusing to hire an
29 individual because of the individual's status as unemployed.
30 An employer is prohibited from directing or requesting that an
31 employment agency take an individual's status as unemployed
32 into account to disqualify an applicant for consideration,
33 screening, or referral for employment.

34 The bill also prohibits an employment agency from engaging
35 in certain unfair or discriminatory employment practices.

1 An employment agency is prohibited from publishing an
2 advertisement or announcement for any vacancy in a job that
3 includes any provision stating that an individual's status
4 as unemployed disqualifies the individual for any employment
5 opportunity or any provision stating that the employment agency
6 or an employer will not consider or hire an individual for any
7 employment opportunity based on that individual's status as
8 unemployed. An employment agency is prohibited from screening,
9 or failing or refusing to consider, or failing or refusing to
10 refer an individual for employment because of the individual's
11 status as unemployed. An employment agency is prohibited from
12 limiting, segregating, or classifying an individual in any
13 manner that would limit the individual's access to information
14 about jobs, or consideration, screening, or referral for jobs
15 solely because of the individual's status as unemployed.

16 The bill provides that a prevailing complainant is entitled
17 to damages including but not limited to actual damages;
18 court costs; reasonable attorney fees; and for a violation
19 relating to publication of an advertisement or announcement for
20 employment, up to \$1,000 for each day the violation occurs; and
21 for any other violation, if wages, salary, employment benefits,
22 or other compensation have not been denied or lost to the
23 complainant, up to \$5,000.

24 The bill is not to be construed to preclude an employer
25 or employment agency from considering an individual's
26 employment history, or from examining the reasons underlying
27 an individual's status as unemployed, in assessing an
28 individual's ability to perform a job or in otherwise making
29 employment decisions about that individual. Such consideration
30 or examination may include an assessment of whether an
31 individual's employment history in a similar or related job
32 for a period of time reasonably proximate to the time of
33 consideration for new employment is job-related or consistent
34 with business necessity in relation to that new employment.